

REMARKS

Claims 12-19, 22-28 and 34-46 are pending in the application. Claims 12, 16, 17, 22, 25 and 26 have been amended. Claims 1-11, 20, 21 and 29-33 have been canceled without prejudice or disclaimer. Claims 34-46 are newly added. Reconsideration of this application is respectfully requested.

The Office Action rejects claims 1-33 under 35 U.S.C 103(a) as unpatentable over U.S. Patent No. 5,909,672 to Madore et al., hereafter Madore in view of U.S Patent Publication No. 2005/0010664 to Hubbard, hereafter Hubbard.

This rejection is moot as to claims 1-11, 20, 21 and 29-33, which have been canceled, and is inapplicable to claims 12-19 and 22-28 because of the amendment that has changed their dependency from canceled claims to new claims.

Claims 12 and 16 have been amended to depend from new claim 44, making the series of claims 12-19 dependent on new claim 44. Claims 22 and 25 have been amended to depend from new claim 45, making the series of claims 22-28 dependent on new claim 45.

Although new claims 44 and 45 have not been rejected, the following observations are offered. New claim 46 is directed to a memory media and is similar to claims 44 and 45. New claims 44-46 each recite process data that is stored in a memory. An access request is generated wherein the access request is based on a data structure that comprises "a plurality of activities of said process, one or more attributes of a first one of said activities, and one or more attributes of a second one of said activities, wherein said second activity is framed at least in part by said first activity". In response to the access request,

the data structure is used to access the memory to retrieve activity data of the second activity.

The Examiner admits that Madore does not disclose or teach a data structure that comprises a plurality of activities in which a second activity is framed at least in part by a first activity. The Examiner contends that Hubbard discloses a framing relationship in which a first interval frames a second interval, citing page 9, paragraph 0089. The Examiner then concludes that it would have been obvious to one of ordinary skill in the art to include the step of a framing relationship in Madore as taught by Hubbard in order to fully utilize the capabilities of connected distributed services, citing page 2, paragraph 0010 of Hubbard.

The Examiner's contention is erroneous. Hubbard's paragraph 0089 merely refers to different time periods including overlapping time periods for basing sweepstake rewards or incentives for allowing a computer to be used in a distributed processing system. However, Hubbard does not disclose a memory accessing system that uses such overlapping time periods for accessing data as recited in new claims 44-46. In fact program 400 in Fig. 4 is described as having a certain algorithm for determining a weight of sweepstake entries but does not teach using any relationship between the entries for accessing a particular activity data. Accordingly, any combination of Madore and Hubbard does not teach the claimed generation of an access request that is based on a framing of a second activity by a first activity at least in part and using the data structure to access the memory to retrieve activity data of the second activity.

There is no motivation or suggestion to combine Madore and Hubbard. Madore discloses a data collection system in which data collected by field personnel using data collection devices is transferred for storage in an SPF. The transfer takes place when a worker places his or her data collection device in a docking station. Madore contains no suggestion of having a reward system for

the workers. Hubbard discloses a distributing processing system in which a multitude of computers is managed according to capability for processing time and capability. Hubbard also discloses an incentive system for rewarding computer clients who allow their computers to be used. Hubbard does not suggest that the reward system could be used in other systems. In fact, Hubbard's distributed processing system is very different than Madore's data collection system.

The Office Action suggestion to use Madore in combination with Hubbard is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

For the reasons set forth above, it is submitted that the rejection of claims 12-19 and 22-28 under 35 U.S.C. 103(a) is obviated by the amendment and should be withdrawn.

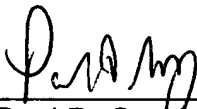
Newly presented independent claims 34, 40 and 43 recite an activity framing program that responds to input data entered by a user to define a data structure in which a second activity is framed by a first activity and wherein the framing program responds to an access request that identifies the first activity and an attribute thereof to access process data to retrieve activity data of the second activity. As noted in the discussion of new claims 44-46, the combination of Madore and Hubbard does not teach a data structure of this type and further

does not teach an access request based on the data structure and using the data structure in response to the request to retrieve the activity data. Accordingly, it is submitted that new claims 34-43 distinguish from the cited art and, therefore, are allowable.

It is respectfully requested for the reasons set forth above that the rejection 35 U.S.C. 103(a) be withdrawn, that claims 12-19, 22-28 and 34-46 be allowed and that this application be passed to issue.

Respectfully Submitted,

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